

PS

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

BEVERLY BAER,

Petitioner,

-v-

UNITED STATES OF AMERICA,

Respondent.

17-CV-0180WMS
11-CR-0104WMS
ORDER

On February 27, 2017, Petitioner, Beverly Baer, an inmate of a federal correctional facility, filed a *pro se* motion under 28 U.S.C. § 2255 to vacate, set aside or correct a sentence by a person in federal custody with respect to the judgment of conviction entered on July 29, 2011. This is Petitioner's second or successive Petition with respect to the same judgment of conviction, which was decided under the criminal docket number 1:11-cr-00104-WMS-1. Petitioner's previous § 2255 motion was filed under civil docket number 12-cv-00490-WMS.

According to 28 U.S.C. § 2255, "a second or successive motion must be certified as provided in § 2244 by a panel of the appropriate court of appeals." The Petitioner's motion has not been so certified. Therefore, in the interests of justice and pursuant to 28 U.S.C. § 1631, this motion shall be transferred to the Second Circuit Court of Appeals for a determination of the certification issue. See *Liriano v. United States of America*, 95 F.3d 119, 120-121 (1996) (motion is clearly a "second or successive motion" within the meaning of § 2255 if it raises claims concerning the same conviction to which movant's prior § 2255 motion was addressed).

IT HEREBY IS ORDERED, that the Petitioner's § 2255 motion is transferred to the Second Circuit Court of Appeals.

SO ORDERED.

/s/William M. Skretny

William M. Skretny
United States District Judge

DATED: March 20, 2017
Buffalo, NY